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'Work First' Program for Delinquent Child Support Payers

Since its creation in 1998, the Work First Program for delinquent child support payers has shown promising results in several circuits, but has only been used sporadically statewide. Expressing strong support for the program's concept, Chief Justice Maura Corrigan recently formed a workgroup to determine how to increase referrals of delinquent payers to Work First. The workgroup has proposed several actions which are currently being implemented.

As an initial step, Mr. John S. Palmer, Jr., Deputy Director, Workforce Programs for the Michigan Department of Career Development, has been presenting information about the Work First program to family division judges throughout the state. Mr. Palmer has been encouraging judges to refer delinquent child support payers to the program via orders from the bench and to request updates on the progress of payers who have enrolled in the program. He has also informed judges of support services available to Work First participants for things such as work skill deficiencies, transportation, and substance abuse. To make referrals easier, the State Court Administrative Office (SCAO) is revising court forms to make referral to Work First one of the options available as a court disposition.

The SCAO also is exploring ways to simplify the required data collection process for this program. Statistics on referrals by each friend of the court (FOC) office are collected on a quarterly basis. Future enhancements to MiCSES will collect the data for FOC offices, but the process will be largely manual until that programming occurs. The SCAO's effort will attempt to identify data that can be obtained relatively easily to show the effectiveness of the program.

The Work First program for delinquent support payers is expected to receive additional funding in FY 2002-2003. FOC offices are urged to schedule meetings with the Michigan Works! Agency servicing their county to discuss possible program changes and to plan for increased program use. Prior to entering into a new Memorandum of Understanding with the Michigan Works! Agency, FOC offices are encouraged to solicit ideas from their staff members on ways to increase referrals and enhance their programs.

Any information you may have concerning best practices and success stories related to this program should be forwarded to Toni Beatty at the SCAO.

Capitol Corner

Since the last publication of the **Pundit** 27 bills that could impact the friend of the court offices have been introduced in the Michigan Legislature. Ten bills have passed both the House and Senate and have been presented to the Governor for his signature. To view these and other bills please go to:

<http://www.michiganlegislature.org/>.

House Bill 5833 was introduced and referred to the Committee on Family and Children Services in the House. The bill would create the Child Support Assurance Project Act. The project would distribute undisbursed child support and be administered by the children's trustee within the Michigan Department of Treasury. The state would deposit undisbursed child support in the project's fund. The children's trustee would invest money from the fund in the same manner and under the same restrictions that are used to invest surplus state funds. Among the criteria to receive monies: a child would be eligible if that child's custodial parent has not received a court-ordered child support payment within the six months before applying.

House Bill 5834 was introduced and referred to the Committee on Family and Children Services in the House. The bill would amend the Office of Child Support Act. The bill establishes policies and procedures regarding undisbursed child support by:

- Creating a database for monitoring undisbursed child support.
- Establishing performance standards for friend of the court offices.
- Developing an undisbursed child support reduction team to assist friend of the court offices.
- Developing a training program for friend of the court offices and the Michigan State Disbursement Unit for reducing the amount of undisbursed child support.

House Bill 6004 was passed by the House and Senate and presented to the Governor for his signature. The bill would revise the Support and Parenting Time Enforcement Act by requiring that all child support be charged monthly on the first day of each month. A support obligation not paid by the last day of the month in which it accrues would be considered past due. Current court orders would be changed to monthly amounts based on a formula developed by the State Court Administrative Office. If payments exceed a monthly amount, the overpayment would be refunded. The bill would allow perfecting of a lien on a child support payer's property when the arrearage has reached two months of payments and would provide administrative procedures for levying against financial assets. The bill requires the financial institution to freeze the assets of the child support payer after being served with a notice of lien and levy. The financial institution then must serve notice of the lien and levy to the child support payer or any person with interest in the assets. If no written challenge is submitted within 21 days to the

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IV-D agency that requested the lien and levy, the financial institution would forward the money to the State Disbursement Unit. If a written challenge is submitted, the IV-D agency must review the case within seven days for possible factual errors. If signed by the Governor, the bill would become effective **December 1, 2002.**

House Bill 6005 was passed by the House and Senate and presented to the Governor for his signature. The bill would amend the Worker's Disability Compensation Act. The bill requires the Worker's Compensation Bureau to release information to be used for the purpose of collecting child support to the State's IV-D agency. If signed by the Governor, the bill would become effective **December 1, 2002.**

House Bill 6006 was passed by the House and Senate and presented to the Governor for his signature. The bill would amend the Support and Parenting Time Enforcement Act. If a payer fails to appear for a show cause hearing, the bill would allow the court to:

- Find the payer in contempt for failure to appear.
- Find the payer in contempt for the reasons stated in the motion for the show cause hearing.
- Apply an enforcement remedy authorized under the Support and Parenting Time Enforcement Act or the Friend of the Court Act for the nonpayment of support.
- Issue a bench warrant for the payer's arrest.
- Adjourn the hearing.
- Dismiss the order to show cause, if the court determined that the payer was not in contempt.
- Order the payer to participate in a community corrections program.

This bill provides that if the payer is arrested, the individual would have to remain in custody until a hearing, unless the payer deposited a cash performance bond in an amount specified in the warrant. Under the bill the court would have to set the bond at a minimum of 25 percent of the arrearage or \$500, whichever is greater. At its own discretion, the court may set the cash performance bond at an amount up to 100% of the arrearage and court costs. The bill requires the warrant to provide that the payer is subject to arrest in any Michigan county. A payer who could not post bond would be entitled to a hearing within 48 hours, excluding weekends and holidays. If a hearing is not held within 48 hours, the court would be required to review the amount of the bond, based on criteria established in Michigan Court Rule, to determine an amount sufficient to ensure the payer's appearance. If signed by the Governor, the bill would become effective **June 1, 2003.**

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House Bill 6007 was passed by the House and Senate and presented to the Governor for his signature. The bill provides a definition of a custody or parenting time order violation as an act, or failure to act that interferes with a parent's right to interact with a child as governed by the order. Under this bill, enforcement remedies for an alleged parenting time violation may be used immediately. The friend of the court may complete one or more of the following to resolve parenting time dispute:

- Apply a makeup parenting time policy.
- Begin a civil contempt proceeding.
- Petition the court for a modification of the current court order for parenting time.
- Schedule mediation.
- Schedule a joint meeting that may result in a written agreement or a recommended order being prepared. Either party could file an objection within 21 days to the recommended order. Absent an objection, the recommended order would become an order of the court. If a party does file an objection, a hearing would be scheduled to resolve the issue.

The friend of the court would **not** have to act on an alleged parenting time violation if the following were true:

- The party filing the complaint had previously submitted two or more unjustifiable complaints, costs were assessed against that party, and the party has not paid the costs.
- If the alleged violation occurred more than 56 days before the complaint was submitted.
- If the custody or parenting time order did not include an enforceable provision that was relevant to the complaint.

The bill further provides that if a party to a parenting time dispute acted in bad faith, the court would have to order a sanction of up to \$250 for the first incident, up to \$500 for a second, and up to \$1,000 for the third or subsequent incident. Monies derived from the sanctions would be deposited in the county's Friend of the Court Fund. The court could order the party who acted in bad faith to pay the other party's costs. If the court finds a person in contempt for violating a parenting time order, the violation must be without good cause. The bill defines what is considered good cause. The bill allows the court to order a person found in contempt to participate in a community corrections program. If signed by the Governor, the bill would become effective **December 1, 2002**.

House Bill 6008 passed by the House and the Senate and presented to the Governor for his signature. The bill would amend the Office of Child Support Act by permitting the Office of Child Support (OCS) to centralize enforcement activities

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for cases upon agreement of State Court Administrative Office (SCAO) and OCS, when friend of the court enforcement has been unsuccessful (when an arrearage on a case exceeds the amount of support due for twelve months or a six month arrearage where the payee has requested centralized enforcement). The centralized enforcement may include, but is not limited to, the following:

- Enforcement remedies under the Support and Parenting Time Enforcement Act.
- Contracting with a private or public collection agency.
- Contracting with a private or public locator service.
- Publishing a delinquent payer's name.
- Local or regional agreements with a law enforcement or prosecutor.

OCS would be required to notify each custodial parent whose case had been selected for centralized enforcement. Each friend of the court office would provide OCS with information necessary to identify cases eligible for centralized enforcement.

OCS would be required to develop a system to track each case selected for centralized enforcement. The effective date stated in the bill is December 1, 2002. However, because the bill was not given immediate effect, the bill will become effective April 1, 2003 (corrected October 8, 2002).

House Bill 6009 was passed by the House and Senate and presented to the Governor for his signature. The bill would amend the Friend of the Court Act by providing alternative methods to enforce health care expenses and parenting time. The bill would require the following conditions to be met before the complaint for collection of the medical expenses would be enforced by the friend of the court:

- The parent is obligated to pay the uninsured health care expenses.
- The demand for payment had been made 28 days after the insurer's final payment or 28 days after it was determined the expenses were not covered by insurance.
- The parent did not pay the uninsured expenses 28 days after the receiving the demand for payment.
- The friend of the court received the complaint for collection within one year from the date the expense was incurred. Six months after the insurers' final payment or denial of coverage for the expense
- If all measures to submit a claim were completed within two months after the expense was incurred.

The friend of the court would be required to send a copy of the complaint to the parent named in the complaint. If that parent does not file an objection within 21

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days the expenses would become a support arrearage. If an objection is filed within 21 days the matter would be scheduled before a referee or judge.

The friend of the court may take enforcement action for the collection of medical expenses if after six months a parent defaults in paying for the health care expense as required under a written agreement.

Within 14 days after receiving a complaint that alleged that custody or parenting time was denied, the friend of the court must send the complaint to the parent who allegedly denied parenting time or custody. If the matter is not resolved, the friend of the court may:

- Take enforcement action under the Support and Parenting Time Enforcement Act.
- File a motion with the court and then prepare a written report and recommendation for an order. If neither party files an objection within 21 days, the recommendation and order will be signed by the court. If an objection is filed, the matter will be noticed for hearing before a referee or judge.

The bill requires the State Court Administrative Office, in consultation with Domestic Violence Prevention and Treatment Board (Michigan Family Independence Agency) to develop guidelines for the implementation of the Support and Parenting Time Enforcement Act. If signed by the Governor, the bill would become effective **December 1, 2002**.

House Bill 6010 was passed by the House and Senate and presented to the Governor for his signature. The bill would amend the Support and Parenting Time Enforcement Act to allow the friend of the court to change the payee of support when the child covered by the order is residing with a person who is not the named recipient of support. The bill would permit the friend of the court to abate support when the child lives with the person who pays support. The redirection or abatement would not occur until 21 days after the friend of the court has notified each party of the proposed action. If an objection is filed, no abatement or redirection will occur. If an objection is filed the support will be reviewed by the friend of the court or the parties will be advised that they must file a motion for modification of the order. Any order signed by the court will contain a clause advising the parties of the redirection and abatement requirements. If signed by the Governor, the bill would become effective **June 1, 2003**.

House Bill 6011 was passed by the House and Senate and presented to the Governor for his signature. This legislation provides that with the initial pleadings either party may file a motion that would exempt them from receiving services from the friend of the court office. The court would issue the order unless one or more of the following were true:

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- One of the parties is eligible for IV-D services because of the party's current or past receipt of public assistance.
- A party applies for IV-D services.
- A party requests the friend of the court to open a case.
- There is evidence of domestic violence or uneven bargaining positions of the parties and evidence that a party has not applied for IV-D services against the best interest of a party or the child.

The bill would allow the parties to file a motion with the court to have their friend of the court case closed. The court would grant the motion unless one or more conditions was present:

- A party to the friend of the court case objects.
- An arrearage is owed to the governmental entity that provided the public assistance.
- That in the previous 12 months a child support arrearage, custody violation, or parenting time violation has occurred.
- A party to a friend of the court case has reopened a friend of the court case in the last 12 months.

Parties may request their friend of the court case be closed but payments be made through the State Disbursement Unit. The friend of the court would not close its case until all required information is provided to the State Disbursement Unit.

All orders signed by the court, after a friend of the court case has been established, must contain all required provisions that allow the parties to opt out of friend of the court services.

The bill would permit the friend of the court office not to enforce an arrearage if:

- Less than one month has passed since the payer has been served with an ex parte order and the friend of the court has not received a proof of service of the order.
- Payments are being made as ordered by income withholding.
- Income withholding is not effective but payments are being made.
- One or more support enforcement measures have been initiated and an objection to one or more of those measures has not been resolved.

An arrearage that was a result of a retroactive modification would not be considered past due for enforcement purposes if the payer became current with payments within two months after entry of the order. If signed by the Governor, the opt out provisions would be effective **December 12, 2002** and the other provisions of the bill would become effective **June 1, 2003**.

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House Bill 6012 was passed by the House and Senate and presented to the Governor for his signature. The bill requires the friend of the court to send the child support payer a notice of arrearage if the arrearage amount was equal to or greater than the amount required for initiation of support enforcement measures. The notice of arrearage would also be sent if the parties reach a written agreement to suspend an income withholding and the arrearage amount equaled or was greater than the amount required for initiation enforcement measures. The payer may object to a income withholding notice within 21 days from the date the notice was sent. The income withholding notice shall be terminated or suspended if the location of the custodial parent cannot be identified within 60 days or more. If signed by the Governor, the bill would become effective **December 1, 2002**.

House Bill 6020 was passed by the House and Senate and presented to the Governor for his signature. The bill would amend the Family Support Act. If custody or parenting time is not in dispute the court would include specific provisions in a family support order that would govern custody and parenting time in accordance with the Child Custody Act. If custody or parenting time is in dispute the court would include in the support order temporary custody and parenting time provisions. Pending a hearing on, or other resolution of, the dispute the court may refer the matter to the friend of the court for a report and recommendation. If signed by the Governor, the bill would become effective **December 1, 2002**.

House Bill 6294-House Bill 6318 were introduced in the House and referred to the Committee on Family and Children Services. The bills would change the name of the Friend of the Court to Friend of the Child.

House Bill 6377 was introduced in the House and referred to the Committee on Family and Children Services. The bill would expand the definition of child abuse to include operating a motor vehicle under the influence of an intoxicating liquor either with a child in the vehicle or with the intent to have a child in the vehicle.

An Outstanding Year for Friend of the Court Offices!

The State Court Administrative Office's, Friend of the Court Statistical Report for 2001 was recently completed. This report indicates that significant improvements were made by the friend of the court offices for the following 15 activities. As a result of the sincere efforts of many friend of the court employees, substantial progress in productivity has been made.

Percentage	2000	2001	Difference
Support Collected	\$1,450,363,326	\$1,512,625,118	+4%
Total Actual Revenue	\$96,414,496	\$125,033,109	+30%
Petitions Filed	27,307	28,069	+3%
Referee Recommendations	118,807	138,257	+16%
Show Cause Hearings Requested Support	210,457	227,845	+8%
Show Cause Hearings Requested Parenting Time	4,821	5,447	+13%
Show Cause Hearings Requested Health Care	5,215	6,434	+23%
Reviews Completed	42,278	45,538	+7%
License Suspension Notices	2,910	10,200	+250%
Driver's Licenses Suspended	1,638	1,879	+15%
Collections from License Suspension	\$710,252	\$1,199,138	+69%
Administrative Liens	193	389	+102%
Collections from Administrative Liens	\$504,555	\$998,988	+98%
Stipulations and Orders	41,712	48,109	+15%
Health Care Compliance Notices Sent	20,827	24,147	+16%

"As a result of the sincere efforts of many friend of the court employees, substantial progress in productivity has been made."

Notably that the increase in these activities were achieved with a smaller statewide caseload than the caseload for 2000. The caseload in 2000 was 837,364 in 2001 it was 812,631.

You may view the entire 2001 Friend of the Court Statistical Report at:

<http://courts.michigan.gov/scao/resources/publications/statistics/foccaseloadreport2001.pdf>.

FYI

Custody and Parenting Time Investigation Manual

The 2002 State Court Administrative Office (SCAO) Custody and Parenting Time Investigation Manual was distributed to all friend of the court offices the week of September 16, 2002. The purpose of the manual is to provide friend of the court investigators with a resource that can be referred to when completing an investigation. The manual provides:

“The SCAO has developed a web-based training program on the custody and parenting time factors . . .”

- Factors from the Child Custody Act, and other statutory considerations.
- Interpretations of the factor based on legal analysis drawn from appellate court decisions.
- Considerations for the investigator when evaluating the factors.
- Practice tips for obtaining information during the investigation.

In addition, specific sections of the manual are dedicated to common information gathering techniques and report preparation. Sample forms, sample contact letters, and Michigan Judicial Institute training materials can be found in the appendices of the manual. Soon, sample reports and an updated table of contents will be forwarded to be included in the manual.

If you have any questions regarding the manual, please contact Timothy Cole at the State Court Administrative Office. The manual is available online at: <http://courts.michigan.gov/scao/resources/publications/manuals/focb/cpinvmnl.htm>.

Custody and Parenting Time Investigation
Web-Based Training

The SCAO has developed a web-based training program on the custody and parenting time factors as outlined in the newly released **Custody and Parenting Time Investigation Manual**. This web-based training will provide users with an understanding of the twelve child custody and nine parenting time factors as well as other key considerations.

Effective November 1, 2002, the training program will be available at: <http://courts.michigan.gov/mji>. Users will be required to click on “Resources” / “Web-Based Training” / “Custody and Parenting Time.”

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Child Support Formula Manual

As a result of the recent four-year review, significant changes (e.g., shared economic responsibility and support abatements) have been made in the **Michigan Child Support Formula Manual**. The manual is scheduled to be released the third week in December of 2002. The January 2003 **Pundit** will provide additional information regarding these significant changes.

Updated Friend of the Court Policies

Section 19 of the Friend of the Court Act (MCL 552.519) provides that the SCAO develop procedures for operation of friend of the court offices. The Friend of the Court Act also requires that each friend of the court take all necessary steps to adopt office procedures to implement the act, supreme court rules, and the recommended policy and procedures of the SCAO, Friend of the Court Bureau. MCL 552.503(6). With the anticipated passage of key legislation, the SCAO soon will be amending many friend of the court policies and providing those policies to the courts.